

AF/ 3682

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES



the patent application of

Hall et al.

Application No. 09/172,577

Filing Date 10/13/1998

For INERT GAS BLANKET FOR PROTECTION FROM OXIDATION

Request of Board for Consideration of Declaration and New Art

On appeal from

Group Art Unit 3682

Examiner Chong H. Kim

Supervisory Examiner David A. Bucci

Commissioner for Patents
Washington, D.C. 20231:

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AUG 23 2002

GROUP 3600

The action of the Examiner in refusing to consider the new published art and initial the Form 1449B/PTO substitute through the 07/16/2002 Office action (Paper No. 40) is respectfully traversed. The Board, not the Examiner, should consider the Declaration with Good Reason for Entry and New Published Art timely filed on June 17, 2002 and received by the Office on June 24, 2002, and the Form 1449B/PTO should be initialed to indicate consideration of the new art attached to the Declaration. (The Declaration, new art, and Form, incidentally, were timely filed on the morning of June 17th. An ORDER mailed JUN 18 2002 from the Board was received on the afternoon of June 17th.) The Declaration served the purpose of providing a statement on the relevance of the new art, even though the relevance of the new art to the patentability of the claims is plain on its face. See, the Declaration, third and fourth paragraphs.

To refuse to initial the Form, when the Declaration with its new art is for the Board, elevates any form above substance, and is improper. This is so even if it is deemed that a fee is due for consideration of the new art (which it is not, since, among other things, the art is entirely new and it is an attached part of a declaration verifying good reasons for its consideration).

Appropriate action by the Board is requested. A fresh Form 1449B/PTO substitute citing the same art is submitted herewith.

Respectfully,

Christopher John Reed

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Dated: July 19, 2002 A.D.

Encl I hereby certify that this correspondence is deposited with the United States Postal Service as first class mail addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date immediately below:

Christopher John Reed Date: 7/19/2002

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(printed)

JUL 31 2002

PTO/SB/08B (10-96)

Approved for use through 10/31/98. OMB 0651-0021

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(use as many sheets as necessary)

Sheet

1

of

1

Complete if Known

Application Number

09/172,577

Filing Date

10/13/1998

First Named Inventor

Richard N. Hall et al.

Group Art Unit

3682

Examiner Name

Chong H. Kim

Attorney Docket Number

BLANKET-358/466

OTHER ~~PRIOR~~ ART - NON PATENT LITERATURE DOCUMENTS

Examiner
Initials*Cite
No. 1

Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.

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Popular Mechanics, July 2002, CarCare
Auto Clinic, Car Care Tip, "Sludge Pits."

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GROUP 3000

Examiner
Signature

Date _____

Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number. ² Applicant is to place a check mark here if English language Translation is attached.

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